

EXHIBIT 7

4/12/2006 DALTON, Mary V.1

1 **THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF MASSACHUSETTS**

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4 **-----X**

5 **In Re: PHARMACEUTICAL) MDL DOCKET NO.**
6 **INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION**
7 **PRICE LITIGATION) 01CV12257-PBS**

8 **-----X**

9 **THIS DOCUMENT RELATES TO:)**
10 **ALL ACTIONS)**

11 **-----X**

12

13 **Taken at 33 South Last Chance Gulch**
14 **Helena, Montana**

15 **Wednesday, April 12, 2006 - 8:43 a.m.**

16

17 **TELEPHONE DEPOSITION OF**
18 **MARY DALTON**

19

20 **Reported by Mary R. Sullivan, RPR, RMR, Freelance**
21 **Court Reporter and Notary Public, State of Montana,**
22 **residing in Missoula, Montana.**

4/12/2006 DALTON, Mary V.1

1 **A. The State had the authority to do it**
2 **within the guidelines that were available to the**
3 **states under the federal participation and Medicaid**
4 **program.**

5 **Q. And Montana Medicaid controlled that**
6 **through the administrative rule-making process?**

7 **A. That would be correct.**

8 **Q. The legislature of Montana didn't need to**
9 **be involved?**

10 **A. The legislature grants the--how would I**
11 **say it. A state agency has no rule-making authority**
12 **that is not granted to it by the state legislature.**

13 **Q. So state of Montana Medicaid controlled**
14 **the reimbursement rate through the administrative**
15 **rule-making process created by the state**
16 **legislature?**

17 **A. State legislature gives the state agency**
18 **the power to do administrative rules, and they--if**
19 **you look back in the Montana Code Annotated, it will**
20 **tell you what agencies have the power to do, rules**
21 **and what areas.**

22 **Q. If Montana had wanted to reimburse**

4/12/2006 DALTON, Mary V.1

1 **pharmacies and physician providers based on actual**
2 **acquisition costs, how would it do so?**

3 **A. I'm not an expert in pharmacy**
4 **reimbursement.**

5 **Q. While you were there at Montana Medicaid--**
6 **well, you're still there, but while you were the**
7 **bureau chief, who were the pharmacy reimbursement**
8 **experts?**

9 **A. The pharmacy program officers and the**
10 **supervisors would have had more knowledge of this**
11 **than I would have had.**

12 **Q. So that would be Dorothy Poulsen, Shannon**
13 **Marr, Jeff Ireland and Terry Krantz?**

14 **A. Those are the people I recall. There**
15 **could be additional people over a--I was there from**
16 **1986 through 2001, so.**

17 **MS. O'SULLIVAN: Why don't we go off the**
18 **record and take a short break.**

19 **THE DEPONENT: Good. You're going to have**
20 **to find me a different chair.**

21 **(Whereupon, the deposition was in**
22 **recess at 10:15 a.m., and subsequently reconvened at**

4/12/2006 DALTON, Mary V.1

1 **Q. If it was a performance review of the drug**
2 **delivery system for Montana Medicaid done in**
3 **September 1996, that would have been under your**
4 **supervisory duties as bureau chief?**

5 **A. It would have been.**

6 **Q. I'd like you to also look to Page 80. In**
7 **about the middle of the page, the second full**
8 **paragraph where it states, "The Department's No. 1**
9 **funding priority in the 2003 biennium was for rate**
10 **increases for Medicaid providers." Do you recall**
11 **that that was the department's No. 1 funding**
12 **priority?**

13 **A. I don't recall.**

14 **Q. The next sentence goes on to say, "This**
15 **conflicts with their first alternative for**
16 **controlling expenditures. DPHHS staff indicated**
17 **adjusting provider service rates as the primary**
18 **alternative for controlling Medicaid expenditures."**
19 **Do you remember such a conflict?**

20 **A. I'm sorry, Katie, I'm not understanding**
21 **what your question is to me.**

22 **Q. Okay. Sure. Let me try again.**

4/12/2006 DALTON, Mary V.1

1 **A. Okay.**

2 **Q. The first sentence said the No. 1 funding**
3 **priority was to increase rates.**

4 **A. Okay.**

5 **Q. And then the audit says this conflicts**
6 **with the first alternative for controlling**
7 **expenditures, which is to adjust provider service**
8 **rates. Do you remember any type of conflict between**
9 **on the one hand DPHHS wanting to increase providers'**
10 **reimbursement or rates and on the other hand**
11 **actually wanting to reign in or lower those rates?**

12 **MS. BRECKENRIDGE: Objection, form.**

13 **A. Medicaid is always a balance of providing**
14 **rates that are high enough to get providers to**
15 **participate while at the same time trying to control**
16 **a limited budget.**

17 **Q. (By Ms. O'Sullivan) Was that your**
18 **experience the whole time you were the Medicaid**
19 **bureau chief?**

20 **A. And continues to this day.**

21 **Q. You can put that legislative audit away,**
22 **I'm not going to ask you questions about every page**

4/12/2006 DALTON, Mary V.1

1 that?

2 A. Pharmacy program officer.

3 Q. Were you consulted prior to the filing of
4 this lawsuit by the state of Montana?

5 A. When was the lawsuit filed?

6 Q. February 23rd, 2002?

7 A. Not that I recall.

8 Q. When do you recall first learning about
9 the suit?

10 A. I don't recall the date that I first
11 learned about it. I'm sure that it probably was--
12 well, I--I don't know how I--I first heard about it.

13 Q. When you say you don't recall the date, do
14 you recall the year?

15 A. No.

16 Q. When were you first instructed to preserve
17 documents relative to the lawsuit?

18 A. I don't know.

19 Q. Do you know when you were first instructed
20 to preserve e-mails or other electronic documents
21 relevant to the suit?

22 A. I don't.

EXHIBIT 8

4/11/2006 ELLERY, Nancy V.1

0001

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF MASSACHUSETTS**
3

4 -----x

5 **IN RE: PHARMACEUTICAL INDUSTRY)**

6 **AVERAGE WHOLESALE PRICE LITIGATION,) MDL DOCKET**

7 -----x **CIVIL ACTION**

8 **THIS DOCUMENT RELATES TO:) 01CV12257-PBS**

9 **ALL ACTIONS)**

10 -----x

11

12 **DEPOSITION OF NANCY ELLERY**

13 **April 11, 2006**

14 **9:14 a.m.**

15 **Held at:**

16 **Hampton Inn & Suites**

17 **155 Southwest Peacock Boulevard**

18 **Port St. Lucie, Florida**

19

20 **Reporter: Tamra K. Piderit, RPR, CRR**

21

22

4/11/2006 ELLERY, Nancy V.1

1 **Q. And that's the only case in which you have**
2 **testified at trial?**

3 **A. The only one that I can recall.**

4 **Q. Ms. Ellery, when did you first find out**
5 **about this lawsuit?**

6 **A. I think the first time I found out was**
7 **when I got a call from the law firm representing the**
8 **State.**

9 **Q. That was within the last several months?**

10 **A. Yes.**

11 **Q. Have you seen a Complaint that describes**
12 **the allegations in this case?**

13 **A. I looked at the original Complaint online.**

14 **Q. When did you look at the original**
15 **Complaint?**

16 **A. When I first heard about this lawsuit.**

17 **Q. Could you describe in your own words in**
18 **general what the allegations are in the Complaint?**

19 **A. The allegations are that, you know, the**
20 **drug manufacturers have inflated their price that**
21 **the State pays.**

22 **Q. Do you believe that the drug manufacturers**

4/11/2006 ELLERY, Nancy V.1

1 setting up the panel of pharmacies that participated
2 in the Montana Medicaid pharmacy program?

3 A. Explain what you mean by panel of
4 pharmacists.

5 Q. There were pharmacies that would -- let me
6 start over. There were pharmacies that would
7 provide pharmaceuticals to Montana Medicaid
8 recipients; is that correct?

9 A. Yes.

10 Q. And were there pharmacies also that did
11 not participate in the Montana Medicaid program?

12 A. Yes.

13 Q. Were you involved in putting together the
14 group of pharmacies that did participate in the
15 Montana Medicaid pharmacy program?

16 A. No.

17 Q. Was that done before the time that you
18 became administrator of Montana Medicaid?

19 A. Each pharmacy decides on its own when to
20 enroll in the program. I don't have any control
21 over that. I didn't have any control over that.

22 Q. Did you see it as part of your job to

4/11/2006 ELLERY, Nancy V.1

1 **assure that there were a sufficient number of**
2 **pharmacies participating in the Montana Medicaid**
3 **program?**

4 **A. Yes, that's part of providing access to**
5 **care.**

6 **Q. What sort of things did you consider in**
7 **making the determination that there was or was not**
8 **sufficient participation by Montana pharmacies in**
9 **the Montana Medicaid program?**

10 **A. One would be that there are adequate**
11 **numbers of pharmacies within a reasonable distance**
12 **of the consumer, the beneficiary.**

13 **Q. Does Montana by virtue of its demographics**
14 **present any unique challenges with regard to**
15 **assuring that a sufficient number of pharmacies**
16 **participate in the Medicaid program?**

17 **A. Yes.**

18 **Q. What are those?**

19 **A. Well, obviously there is much of Montana**
20 **that is rural that may not have as many providers as**
21 **the more urban areas. That's a challenge in every**
22 **service that you provide in Medicaid.**

4/11/2006 ELLERY, Nancy V.1

1 **Q. And how did having rural counties affect -**
2 **- let me start over. How did having rural counties**
3 **with only a single or a few pharmacies affect**
4 **decisions that Montana Medicaid made about**
5 **reimbursement levels that it would provide to**
6 **pharmacies that participated in the Montana Medicaid**
7 **program?**

8 **A. Could you repeat that?**

9 **MR. EVERETT: Maybe the court reporter**
10 **could read it back.**

11 **(Question read)**

12 **A. You had to consider access to meet the**
13 **federal regulations that services be available**
14 **comparable to those that the non-Medicaid population**
15 **can receive.**

16 **Q. Was there a single reimbursement**
17 **methodology that was applied to reimbursement for**
18 **all pharmaceutical products reimbursed by Montana**
19 **Medicaid?**

20 **A. That was some time ago. I think that we**
21 **may have at that time had a "lower of" policy, which**
22 **means that we would pay the lower of the provider's**

4/11/2006 ELLERY, Nancy V.1

1 **Q. Can you read the title, though?**

2 **A. "Licensed Community Pharmacies by County."**

3 **Q. And part of your role as administrator of**
4 **the Medicaid program in Montana was to assure that**
5 **pharmacies were available for Medicaid recipients in**
6 **as many of the counties as possible; is that**
7 **correct?**

8 **A. We could not generate pharmacies if they**
9 **weren't there. We were concerned if there weren't**
10 **enough pharmacies, but we didn't have control over**
11 **who came into the program.**

12 **Q. Did you try to set reimbursement for**
13 **pharmaceuticals at a level that would assure that**
14 **there were pharmacies available for Montana Medicaid**
15 **recipients in as many of the counties in Montana as**
16 **possible?**

17 **MR. GAUDET: Objection.**

18 **A. That's part of what you do when you set**
19 **reimbursement is to try to be sure that your**
20 **reimbursement rates will allow for access similar to**
21 **the private pay population. That's what we do in**
22 **every service in Medicaid. It's not possible in all**

4/11/2006 ELLERY, Nancy V.1

1 cases, but that's the overall goal.

2 Q. And if you believed that pharmacies in
3 counties where there were relatively few pharmacies
4 would leave the Montana Medicaid program if
5 reimbursements were lowered, would that affect your
6 decision about reimbursement levels?

7 MR. GAUDET: Objection.

8 A. Would you repeat the question.

9 MR. EVERETT: Would the court reporter
10 read it back, please.

11 (Question read)

12 A. We had to set reimbursement that would
13 meet the needs of most of the population. Montana
14 is a rural state, you cannot generate pharmacies.
15 So, you know, you took it in consideration, but you
16 didn't have direct control over it.

17 Q. Did you expect that the pharmacies that
18 participated in the Montana Medicaid program earned
19 some profit on sales of pharmaceutical products that
20 they sold to Montana Medicaid recipients?

21 A. The pharmacies?

22 MR. GAUDET: Objection.

4/11/2006 ELLERY, Nancy V.1

1 **Q. How did they require it?**

2 **A. I take that back. They didn't report it**
3 **to the State. I think how it worked was they**
4 **reported it through a third-party organization, kind**
5 **of self-reported prices, and we got those through**
6 **the First Databank. I think that's how it worked.**

7 **Q. So Montana Medicaid received information**
8 **about AWP from third-party sources like First**
9 **Databank or Red Book; is that right?**

10 **A. Right.**

11 **Q. What did the State of Montana do with that**
12 **information?**

13 **A. We used that to set our reimbursement**
14 **level.**

15 **Q. Did the State of Montana ever require**
16 **pharmacies to report their acquisition cost for**
17 **drugs?**

18 **A. I don't recall. I don't know. I can't**
19 **remember.**

20 **Q. Is that something that the State of**
21 **Montana could have required?**

22 **A. To require to do what?**

4/11/2006 ELLERY, Nancy V.1

1 **Q. You don't remember it at all?**

2 **A. I know we did it, but I couldn't tell you**
3 **when exactly it was.**

4 **Q. Are there particular states that you would**
5 **benchmark for Montana Medicaid?**

6 **A. Not that I'm aware of. Again, as the**
7 **director, you know, that was all done at levels much**
8 **lower than I was involved in.**

9 **Q. But you were involved in setting the**
10 **policy for Montana Medicaid, weren't you?**

11 **A. I was responsible as administrator for the**
12 **policy, but staff did all the work and research.**

13 **Q. If the dispensing fee for pharmaceutical**
14 **products were to change, would you have been**
15 **involved in that decision?**

16 **A. Yes.**

17 **Q. And, likewise, if the reimbursement rate**
18 **paid for the ingredient costs of a pharmaceutical**
19 **product were changed, you would have been involved**
20 **in that decision; is that right?**

21 **MR. GAUDET: Objection.**

22 **A. No, not at that kind of detail. I would**

4/11/2006 ELLERY, Nancy V.1

1 A. Let me just read it real quick.

2 Q. Sure.

3 A. (Witness reviews document)

4 It does appear to be a response to that.

5 Q. Do you recall whether you discussed this
6 response with Ms. Poulsen before she sent it to Kim
7 Johnson?

8 A. I don't recall.

9 Q. Is that something you normally would have
10 done in the ordinary course of your business?

11 A. It depends on what was going on at the
12 time. If I was busy with other crises, no, I
13 wouldn't have discussed it with her, because I
14 trusted my staff to do the right thing.

15 Q. Does the fact that you were copied on this
16 memo suggest to you that you discussed the response
17 with Ms. Poulsen before it was sent?

18 MR. GAUDET: Objection.

19 A. Not necessarily. She would -- since the
20 original thing was addressed to the Medicaid
21 director, she would have out of protocol copied me
22 on the response. That doesn't mean we talked about

4/11/2006 ELLERY, Nancy V.1

1 **MR. GAUDET: Objection.**

2 **A. No.**

3 **Q. Are you aware of any other criticisms that**
4 **Montana Medicaid had with regard to the 1996 OIG**
5 **report?**

6 **A. No.**

7 **Q. For most pharmacy issues were you**
8 **comfortable relying on the expertise of your staff**
9 **in making decisions?**

10 **A. Yes.**

11 **Q. Did you have any reason to believe --**
12 **strike that.**

13 **Did you have any reason to doubt work done**
14 **by Terry Krantz relating to the 1996 OIG report?**

15 **A. No.**

16 **Q. In general you felt comfortable relying on**
17 **Mr. Krantz?**

18 **A. Actually, Jeff Ireland was the pharmacy**
19 **manager, so he was the primary one involved.**

20 **Q. Would you feel comfortable relying in**
21 **general on Mr. Ireland?**

22 **A. Yes.**

4/11/2006 ELLERY, Nancy V.1

1 **Q. Do you know who Michael S. Billings is?**

2 **A. Yes.**

3 **Q. Who is he?**

4 **A. He at the time was administrator of the**
5 **Operations and Technology Division in the**
6 **department. He obviously was acting on behalf of**
7 **Mr. Blouke and signing the letter.**

8 **Q. In general in evaluating the reimbursement**
9 **methodology utilized by Montana Medicaid for**
10 **pharmacy products, did Montana Medicaid consider it**
11 **important to consider both the ingredient cost and**
12 **the dispensing fee together?**

13 **MR. GAUDET: Objection. Foundation.**

14 **A. Would you repeat the question?**

15 **(Question read)**

16 **A. I don't recall.**

17 **Q. Do you recall any discussions during your**
18 **time as director of Montana Medicaid about the**
19 **dispensing fee that was paid to pharmacists who**
20 **dispensed pharmacy products to recipients?**

21 **MR. GAUDET: Objection.**

22 **A. Yes.**

4/11/2006 ELLERY, Nancy V.1

1 **Q. What discussions do you recall?**

2 **A. That the dispensing fee was not adequate**
3 **to cover their cost.**

4 **Q. And what was the basis for the belief of**
5 **Montana Medicaid that the dispensing fee was**
6 **inadequate to cover the costs of pharmacies?**

7 **A. This is what the pharmacies told us. At**
8 **some point in this process we had a survey of the**
9 **dispensing fees to validate or not validate what**
10 **they were telling us.**

11 **Q. Was the inadequate dispensing fee**
12 **subsidized by the ingredient cost of the**
13 **reimbursement?**

14 **A. I don't know. I don't recall.**

15 **Q. Did Montana Medicaid change the dispensing**
16 **fee during your time as director of the Montana**
17 **Medicaid program to make it adequate?**

18 **A. I think we did. I can't tell you when. I**
19 **know we did something as a result of the dispensing**
20 **fee survey, but I don't know when that was.**

21 **Q. Let's turn back to the beginning of**
22 **Exhibit Ellery 012. Take a look at the first**

4/11/2006 ELLERY, Nancy V.1

1 **paragraph of page 19235, under the heading**
2 **"Introduction."** Does that refresh your recollection
3 **at all as to Montana Medicaid's participation in a**
4 **survey of acquisition costs that was then reported**
5 **in the 1996 OIG report?**

6 **A. It just tells me that HCFA requested them**
7 **to take a look at this, but I don't recall the**
8 **details of that.**

9 **Q. Do you recall that Montana Medicaid did,**
10 **in fact, do that?**

11 **A. Yes. When CMS requests you to do**
12 **something, you do it.**

13 **Q. If you look at the last sentence under the**
14 **first paragraph under the heading "Background," it**
15 **says, "The State agencies are responsible for**
16 **determining the EAC and the dispensing fee."**

17 **Do you see that?**

18 **A. Yes.**

19 **Q. Does that accurately reflect your**
20 **understanding of the State agency's responsibility**
21 **with regard to EAC and dispensing fees?**

22 **A. At that time it did.**

4/11/2006 ELLERY, Nancy V.1

1 companies that publish the prices in the Red Book
2 and First Databank.

3 Q. Did you believe that it reflected the
4 actual acquisition costs of pharmacies?

5 A. No, because that's why we had a discount
6 off of it.

7 Q. Did you believe that there was a standard
8 and consistent difference between the acquisition
9 cost of pharmacies and the published AWPs?

10 MR. GAUDET: Objection.

11 A. I don't recall.

12 Q. Did you believe that AWP reflected
13 acquisition costs for physicians?

14 A. I don't know.

15 Q. Did you believe that AWP reflected
16 acquisition costs for hospitals?

17 A. I don't know.

18 Q. If you turn to page MT 19240, the first
19 full sentence of the second full paragraph under
20 "Conclusions and Recommendations" says that "We
21 recognize that acquisition cost is just one factor
22 in pharmacy reimbursement policy and that any change

4/11/2006 ELLERY, Nancy V.1

1 **Dorothy Poulsen was the pharmacy manager for a**
2 **significant portion of your tenure; is that correct?**

3 **A. That's not what I said. Dorothy was the**
4 **program manager at the time that I left.**

5 **Q. Okay.**

6 **A. I don't recall how long she was the**
7 **manager, but she was the pharmacy manager at the**
8 **time that I left.**

9 **Q. As the pharmacy manager she would be the**
10 **person most knowledgeable about pharmacy related**
11 **issues?**

12 **A. Absolutely.**

13 **Q. I'm going to read you a section of the**
14 **deposition transcript from Ms. Poulsen's February**
15 **22nd transcript.**

16 **A. Okay.**

17 **Q. "I wanted to make sure that we had access**
18 **to the drugs needed by our client. We have three**
19 **constituency in that position; you have the client,**
20 **the providers with whom you want to have a good**
21 **relationship and cooperative relationship, and you**
22 **have the taxpayer. You have a responsibility, you**

4/11/2006 ELLERY, Nancy V.1

1 are the State, in balancing those three roles was
2 always what it was you tried to do."

3 **Do you agree with that statement?**

4 **A. Yes.**

5 **Q. Do you have anything to add to that**
6 **statement?**

7 **A. It was well stated.**

8 **MS. NEMIROW: I have nothing further.**

9 **MR. CLARK: No questions.**

10

11 **CROSS EXAMINATION**

12 **BY MR. KATZ:**

13 **Q. My name is Clifford Katz, and I represent**
14 **Dey. Have you heard of the pharmaceutical company**
15 **called Dey?**

16 **A. No.**

17 **Q. Ms. Ellery?**

18 **A. No. I'm sorry, I will get closer to the**
19 **phone. I have not heard of that company.**

20 **Q. So is it safe to say you have never had**
21 **any communications with any representatives of Dey?**

22 **A. That's correct.**

EXHIBIT 9

4/18/2006 HUNTER, Charles L. V.1

0001

1 **THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF MASSACHUSETTS**

3 **--000--**

4 **X**

5 **In Re: PHARMACEUTICAL) MDL DOCKET NO.**
6 **INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION**
7 **PRICE LITIGATION) 01CV12257-PBS**

8 **X**

9 **THIS DOCUMENT RELATES TO:)**
10 **ALL ACTIONS)**

11 **X**

12 **TELEPHONE DEPOSITION**
13 **OF**
14 **CHARLES L. HUNTER**

15
16 **Taken at 33 South Last Chance Gulch**
17 **Helena, Montana**

18 **Tuesday, April 18, 2006 - 9:50 a.m.**

19

20 **Reported by Mary R. Sullivan, RPR, RMR, Freeland**
21 **Court Reporter, Notary Public, residing in Missoula,**
22 **Montana.**

4/18/2006 HUNTER, Charles L. V.1

1 **Q. Did this initiative ultimately get**
2 **implemented?**

3 **A. In a much smaller way than originally**
4 **thought. It turned out that only the hospitals were**
5 **a group that wanted to be involved in this.**

6 **Q. And why was that?**

7 **MS. BRECKENRIDGE: Objection.**

8 **A. If you're familiar with how provider tax**
9 **works, you have to have all providers in a**
10 **particular service type and you have to tax every**
11 **one of them, you have to tax them equally. The**
12 **hospitals were the only group that was cohesive**
13 **enough with a clear enough direct benefit to them**
14 **with enough experience, you know, where they looked**
15 **at other states and saw how this worked, that it**
16 **made sense for them to step up to the plate and say,**
17 **yeah, we want to do this. There were other groups**
18 **that would have benefited, but they were the only**
19 **ones that saw the benefit and didn't have the fear**
20 **of it, and, thus, acted on it.**

21 **Q. (By Mr. Baranski) Okay. You mentioned**
22 **access as part of this initiative. Can you explain**

4/18/2006 HUNTER, Charles L. V.1

1 what you mean by access generally?

2 A. What I mean by that is having enough
3 providers who are willing to be part of the Medicaid
4 network to assure Medicaid clients of being able to
5 go to the types of service providers they need.

6 Q. And does Montana's rural and frontier
7 nature provide specific access challenges to the
8 state?

9 A. Yes.

10 Q. What are those?

11 A. The challenges are, you know, pretty
12 simply stated, in a couple of ways. One is, you
13 know, lots of square miles, not many people. There
14 are not many physicians or other medical specialists
15 out in those communities. Travel is the other
16 issue, people have to travel a long way. It's kind
17 of the flip side of the answer I just gave you.

18 Q. And providers' participation in the
19 Medicaid program is voluntary, correct?

20 A. Correct.

21 Q. And are they free to leave the program at
22 any time that they choose to or--

4/18/2006 HUNTER, Charles L. V.1

1 A. Yes.

2 Q. Would the access issues that you just
3 discussed generally that arise from Montana's sort
4 of makeup, would those access concerns apply to
5 pharmacies, for instance?

6 A. Yes.

7 Q. And what about physicians who see patients
8 in their offices and administer physician
9 administered drugs?

10 A. Yes.

11 Q. And one of the ways that the State has to
12 deal with the access challenges is ensuring adequate
13 reimbursement to these providers, correct?

14 A. Correct.

15 MS. BRECKENRIDGE: Objection.

16 Q. (By Mr. Baranski) Other than this
17 Medicaid assessment initiative that you worked on in
18 2002, for that job position, because I know you said
19 you switched about a year later, were there any
20 other Medicaid initiatives that you worked on during
21 that 2002 time period that related to Medicaid's
22 coverage of prescription drugs?

4/18/2006 HUNTER, Charles L. V.1

1 for documents related to this lawsuit?

2 A. No.

3 Q. Did you delegate to anyone to have them do
4 a search?

5 A. There was a discussion at the meeting that
6 I mentioned prior about where those documents--where
7 documents related to this lawsuit might exist, and
8 it was generally agreed that those documents existed
9 at lower levels than mine, and that Duane Preshinger
10 and his staff were the place where those documents
11 would reside, so it was agreed that's where the
12 document search would take place.

13 Q. And that--that meeting took place in the
14 summer of 2005?

15 A. That's my recollection of it.

16 Q. And you don't--do you recall any other
17 meetings related to this lawsuit that you attended?

18 A. No.

19 Q. Had you heard of the lawsuit prior to that
20 meeting?

21 A. Briefly. I hadn't heard a lot about it.

22 Q. Were you consulted in any way prior to the

4/18/2006 HUNTER, Charles L. V.1

1 **filing of the lawsuit?**

2 **A. No.**

3 **Q. Did you receive any instruction about the**
4 **need to retain documents because of this lawsuit?**

5 **A. No.**

6 **Q. When you first became involved in 2002,**
7 **July of 2002 with the Medicaid program, do you**
8 **recall inheriting any files from anyone?**

9 **A. There were all the files from the former**
10 **administrator there that related to Medicaid.**

11 **Q. And who was the former administrator?**

12 **A. Nancy Ellery actually, and Maggie Bullock**
13 **was my direct predecessor. There were files from**
14 **both those people in my office.**

15 **Q. Did you ever look through those files in**
16 **connection with your work responsibilities?**

17 **A. Not really. I did retain those files for**
18 **a period of time just to see if I would need them.**
19 **There were files that I kept in the office for about**
20 **six months, didn't find that I was in those files,**
21 **so they were moved to storage.**

22 **Q. What happened with your files when you**

4/18/2006 HUNTER, Charles L. V.1

1 less 15 percent to AWP less 25 percent. Did you
2 have any involvement in this proposal?

3 A. No.

4 Q. Do you have any recollection of this
5 proposed change?

6 A. No.

7 Q. Did you ever have any communications with
8 providers regarding the proposed change to go from
9 AWP minus 15 percent to AWP minus 25 percent?

10 A. Nope.

11 EXHIBIT:

12 (Exhibit Hunter 005 marked for
13 identification.)

14 Q. (By Mr. Baranski) Mr. Hunter, the
15 document I've put before you is a 2002 survey of
16 Montana community pharmacies Bates labeled MT 025491
17 through MT 025510. Do you recognize this document?

18 A. No.

19 Q. Never seen it before, huh?

20 A. Nope.

21 Q. Do you have any understanding of what some
22 of the unique concerns that rural pharmacies in

4/18/2006 HUNTER, Charles L. V.1

1 **Montana have with respect to Medicaid reimbursement?**

2 **MS. BRECKENRIDGE: Objection, form.**

3 **A. I have heard it said that they're**
4 **concerned about several things. They're concerned**
5 **about having access to Medicaid reimbursement**
6 **because Medicaid can provide a foundation for**
7 **businesses to stay open. I have heard it said that**
8 **there's concern about reimbursement level because if**
9 **reimbursement isn't adequate, it makes it difficult**
10 **for them to provide service or to keep their doors**
11 **open in rural communities. I have heard that rural**
12 **pharmacies like Medicaid because Medicaid is a good**
13 **payer in comparison to others. I have heard that**
14 **rural pharmacies don't like Medicaid because**
15 **Medicaid is not a good payer in comparison to**
16 **others, so those kind of sum up the things I've**
17 **heard about rural pharmacy issues related to**
18 **Medicaid.**

19 **Q. (By Mr. Baranski) Is insuring beneficiary**
20 **access to pharmacies participating in the Medicaid**
21 **program for rural beneficiaries a concern faced by**
22 **the Montana Medicaid program?**

4/18/2006 HUNTER, Charles L. V.1

1 A. Yes.

2 Q. And how does the Medicaid program address
3 that concern?

4 A. Well, trying to make sure that to the
5 extent that there are rural pharmacies, that
6 reimbursement is enough so that rural pharmacies
7 will continue to provide Medicaid scripts. I will
8 also tell you that, you know, there--there is some
9 recognition that going to mail order pharmacy would
10 be a cheaper way to go and would provide access to,
11 you know, rural constituents.

12 Q. But why hasn't the Medicaid program--

13 A. Purely political. I mean--

14 Q. Can you explain it, please?

15 A. You want to keep main street businesses
16 open.

17 Q. Do the--to your knowledge, do the
18 pharmacists lobby the legislature on Medicaid
19 reimbursement issues?

20 A. Yes.

21 Q. Would you, in your words, describe the
22 Montana pharmacies as a powerful lobbying entity?

EXHIBIT 10

4/10/2006 IRELAND, Jeffrey E. V.1

1 **THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF MASSACHUSETTS**

3 **---OoO---**

4 **-----X-----**

5 **In re: PHARMACEUTICAL) MDL DOCKET NO.**
6 **INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION**
7 **PRICE LITIGATION) 01CV12257-PBS**

8 **-----X-----**

9 **THIS DOCUMENT RELATES TO:)**
10 **ALL ACTIONS)**

11 **-----X-----**

12 **Taken at 33 South Last Chance Gulch**
13 **Helena, Montana**
14 **Monday, April 10, 2006 - 3:00 p.m.**

15

16 **D E P O S I T I O N**

17 **OF**

18 **JEFFREY E. IRELAND**

19

20 **Reported by Mary R. Sullivan, RPR, RMR, Freelance**
21 **Court Reporter and Notary Public, State of Montana,**
22 **residing in Missoula, Montana.**

4/10/2006 IRELAND, Jeffrey E. V.1

1 probably issued by pharmacies in Montana.

2 Q. Okay.

3 A. So given that information, my response
4 would be yes, that would have been there when I took
5 over the program.

6 Q. And was there some perceived benefit of
7 having rural pharmacy available for Montana
8 citizens?

9 **MS. BRECKENRIDGE: Objection. You can**
10 **answer when I object.**

11 Q. (By Mr. Waterman) You can answer.

12 A. If I remember correctly, our
13 responsibility was to make sure that access to
14 pharmaceuticals was made available to eligible
15 Medicaid recipients. Because of the geographic size
16 and remoteness of the state of Montana, obviously
17 every pharmacy that we could have that would
18 participate would extend access to Medicaid
19 recipients, so given that information, my response
20 would be yes, that it was important that we have,
21 you know, as many pharmacies participate to include
22 those areas.

4/10/2006 IRELAND, Jeffrey E. V.1

1 Q. Could it be that the survey does not
2 include claims that have been submitted and paid in
3 the usual and customary manner?

4 A. I suppose.

5 Q. But, again, you've not really--you don't
6 have a remembrance of seeing this document.

7 A. No, I don't.

8 Q. Nor providing any comment on it.

9 A. No, I don't, given the information that I
10 have in front of me.

11 Q. Okay. Do you know what percentage,
12 roughly, of the Montana Medicaid claims that were
13 paid and U & C rather than the AWP minus ten
14 percent?

15 A. No, I don't.

16 Q. Would you go back to the first page? On
17 the first paragraph, the fourth line, apparently Mr.
18 Krantz says, "While AWP is a national standard it is
19 apparent from the results of the survey that it has
20 little to do with the acquisition costs of pharmacy
21 products." Do you see that?

22 A. Yes, I do.

4/10/2006 IRELAND, Jeffrey E. V.1

1 **Q. Was that your understanding at the time as**
2 **well?**

3 **A. Yes.**

4 **Q. Okay.**

5 **MR. WATERMAN: It's about 20 of five.**

6 **We've been going for about an hour and 20 minutes.**

7 **Do you want to take a break?**

8 **THE COURT REPORTER: I'm fine.**

9 **MR. WATERMAN: Does anybody want to take a**
10 **break?**

11 **A. No, I'm okay.**

12 **EXHIBIT:**

13 **(Exhibit Ireland 005 marked for**
14 **identification.)**

15 **Q. (By Mr. Waterman) Showing you Deposition**
16 **Exhibit Ireland 005, take a moment to look through**
17 **that, please.**

18 **A. Okay.**

19 **Q. The issue of pharmacy acquisition costs**
20 **would have been one of the issues that you were**
21 **dealing with as the PPM for Medicaid back in 1996;**
22 **is that correct?**

4/10/2006 IRELAND, Jeffrey E. V.1

1 whether or not they should, and if so, what is your
2 memory of that discussion?

3 A. I don't remember any specific, you know,
4 discussion as a result of that report.

5 Q. The same would be true with respect to
6 changing the standards so that it was more closely
7 tied to the actual acquisition costs. I take it you
8 don't remember any discussions about that either.

9 A. No, I don't.

10 Q. Did the State at that time in 1996 have
11 the power to design its own Medicaid drug
12 reimbursement program?

13 A. The State had flexibility to determine the
14 reimbursement, but I believe that there were federal
15 guidelines that we had to, you know, follow, so,
16 yes, there was flexibility for the State to have,
17 you know, specific things that may be unique to the
18 State itself.

19 Q. Okay. And if the State had wanted to
20 reimburse pharmacies for actual acquisition costs,
21 it could have done so, couldn't it?

22 A. Without, you know, specific information

4/10/2006 IRELAND, Jeffrey E. V.1

1 and having the references as far as the guidelines,
2 I don't know if I can answer yes or no, you know, to
3 that question.

4 Q. Would it be correct that they could have
5 done so? At least your knowledge is they could have
6 done so to the extent that the guidelines or
7 regulations permitted.

8 A. My understanding, that's correct.

9 Q. Okay. Do you know of any instance where a
10 Medicaid provider provided Montana Medicaid with
11 actual retail pricing data?

12 A. Actual retail pricing data. Meaning the
13 costs that they would charge any paying customer?

14 Q. Uh-huh.

15 A. Well, they gave it to us when they billed
16 us, so if they billed us with the amount that they
17 actually charged, we would get that data all the
18 time.

19 Q. Do you know whether or not that is, in
20 fact, what they gave you?

21 A. No, we don't. In some instances, you'd
22 have to make the assumption, you know, without going

4/10/2006 IRELAND, Jeffrey E. V.1

1 **don't know that I would be able to tell you whether**
2 **my response would have been different because I**
3 **don't know what the HMO had to offer, but one of the**
4 **things that had to be considered was that currently**
5 **we're receiving a rebate that offsets our**
6 **pharmaceutical costs, and that needed to be**
7 **considered in this particular type of an approach.**

8 **Q. (By Mr. Waterman) On the second page at**
9 **the very bottom talking about reimbursement changes,**
10 **you say--it looks like the second sentence, "The AWP**
11 **was based upon a standard package size of 100 units**
12 **or 480 millimeters. This was used regardless of the**
13 **actual AWP of the product being dispensed." The--**
14 **when you say actual AWP, you mean the actual or the**
15 **AWP published in First Data Bank?**

16 **A. Yes, that would be where we would have**
17 **gotten all of our AWP information.**

18 **Q. Okay. Does that mean that the AWP**
19 **published in the First Data Bank might have been**
20 **higher or lower than Montana Medicaid actually paid,**
21 **the amount that Montana Medicaid actually paid?**

22 **MS. BRECKENRIDGE: Objection.**

4/10/2006 IRELAND, Jeffrey E. V.1

1 **or did you do everything in the first instance**
2 **related to pharmacy?**

3 A. I think it would be a fair statement to
4 say that he did have some involvement with me as a
5 program officer. Initially it was a pretty big
6 program, and to start with, there may have been
7 things that he was involved with that he carried on,
8 but I was always kept involved in most instances or
9 at least understood what was going on. Maybe I
10 didn't have the in-depth knowledge that I would have
11 had I done the project myself.

12 Q. I think in the correspondence he's
13 designated by people within the Montana Medicaid
14 program as the point of contact for the OIG in that
15 study and that's what prompted that question.

16 A. Uh-huh.

17 Q. Given that as I--as I understand it, you
18 don't recall much of anything related to that study.

19 A. Right.

20 Q. You indicated earlier that your AWP data
21 came from either Medispan or Blue Book or Red Book.
22 Do you recall specifically which outfit you got it

4/10/2006 IRELAND, Jeffrey E. V.1

1 **from and how?**

2 **A. Let me think. I believe that Red Book**
3 **sticks in my mind.**

4 **Q. First Data Bank?**

5 **A. First Data Bank, and I believe that they**
6 **were the ones that we used through MMIS that**
7 **actually used the reimbursement, but when we had the**
8 **contract with Pharmark, I believe they used**
9 **Medispan.**

10 **Q. And when you refer to Pharmark, what is**
11 **Pharmark?**

12 **A. Pharmark was the contract that we let for**
13 **the Drug Utilization Review program, and the Montana**
14 **Wyoming Foundation was subcontracted by them to**
15 **perform that because we required an entity located**
16 **here in Helena, so that's what that is. I don't**
17 **know who they're called now or if they're still**
18 **around.**

19 **Q. Was the contract between First Data Bank**
20 **and I think you said MMIS?**

21 **A. Well, the MMIS is the Medicaid Management**
22 **Information System that was run by Consultec who was**

4/10/2006 IRELAND, Jeffrey E. V.1

1 **average wholesale price?**

2 **A. I don't.**

3 **Q. Are you aware of any guidance that the**
4 **Montana Medicaid program provides to manufacturers**
5 **regarding what average wholesale price is supposed**
6 **to represent?**

7 **A. No.**

8 **Q. I apologize in advance because I'm sure**
9 **I'm going to confuse what you said even more than--**

10 **A. Sure.**

11 **Q. --I--**

12 **A. It's a challenge.**

13 **Q. --but earlier you were asked a series of**
14 **questions about how you obtained--prior to 1994 the**
15 **State obtained AWP information and somehow converted**
16 **it to different package sizes for reimbursement.**

17 **A. Uh-huh.**

18 **Q. And then in 1994 changed back to just**
19 **using whatever FDB published its AWP.**

20 **A. Right.**

21 **Q. Is it fair to say that prior to 1994 you--**
22 **the Montana Medicaid program or Consultec on your**

EXHIBIT 11

Terry Krantz

March 17, 2006

Helena, MT

1

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CERTIFIED COPY

IN RE: PHARMACEUTICAL)
INDUSTRY AVERAGE)
WHOLESALE PRICE)
LITIGATION,) Civil Action 01CV12257PBS
)

DEPOSITION UPON ORAL EXAMINATION OF
TERRY KRANTZ

8:30 a.m.

March 17, 2006

GOUGH SHANAHAN JOHNSON & WATERMAN
33 South Last Chance Gulch
Helena, Montana 59601

REPORTED BY: Judith A. Robinson, CCR #2171

Henderson Legal Services
(202) 220-4158

Terry Krantz

March 17, 2006

Helena, MT

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1 by, "no information has been developed"?

2 **A. No.**

3 Q. Looking at the second page of Exhibit
4 Krantz 002 -- I'm sorry. I went ahead of myself.

5 Below the average wholesale price review
6 on the first page of Exhibit Krantz 002 is something
7 that says, "Mail Order Drugs." Do you see that?

8 **A. Yes.**

9 Q. And did you write, "It is the consensus of
10 the States that this will not be cost effective
11 because of on- and-off nature of eligibility, the
12 waste involved to guarantee the delivery of the
13 drugs, the economic impact on some rural retail
14 pharmacies." And then you stated other reasons.

15 Do you remember what you meant by,
16 "talking about the economic impact on some rural
17 retail pharmacies"?

18 **A. My recollection is that it was the
19 consensus of the states that small rural retail
20 pharmacies would suffer a loss of business if we
21 moved towards mail-order drugs.**

22 Q. Was that also a consensus of Montana

Terry Krantz

March 17, 2006

Helena, MT

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1 Medicaid?

2 **A. At that time I -- I don't recall. I don't**
3 **recall if it was a finish if Montana was in the**
4 **consensus or not.**

5 Q. While you worked at Montana Medicaid in
6 pharmacy issues, was the viability of Montana's
7 rural pharmacies a concern for you?

8 **A. Yes.**

9 Q. Why was that?

10 **A. Access to services was always a concern.**

11 Q. Now looking at page 2 of Exhibit Krantz
12 002, there's some handwriting at the end.

13 Do you recognize that?

14 **A. No, I don't.**

15 Q. I would like you to look at Exhibit Krantz
16 003 which is entitled, "Partnership Plan,
17 Federal/State Joint Audits of the Medicaid Program."

18 Would you please look at this document and
19 tell me if this was the Federal/State Joint Audits
20 that you were referring to in your memo that's
21 Exhibit Krantz 002?

22 **A. Yes. It appears to be the document.**

Henderson Legal Services
(202) 220-4158

Terry Krantz

March 17, 2006

Helena, MT

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1 paragraph, third sentence that starts, "In Montana."

2 Do you see that? Page 2 of Exhibit Krantz
3 004, first full paragraph, third sentence, "In
4 Montana."

5 **A. Yes.**

6 Q. Where you wrote, "In Montana we currently
7 have a fairly good idea that the dispensing fee
8 reimbursed is below the cost to dispense because of
9 the cap on dispensing fees that is currently in
10 place," do you recall your basis for saying that the
11 dispensing fee reimbursed is below the cost to
12 dispense?

13 A. I believe I stated it in the response that
14 we had a cap on the dispensing fees at that point in
15 time and as costs rise, the cap kept the dispensing
16 fee below the actual cost to dispense. That is what
17 led to this statement.

18 Q. So you knew, at least as of writing this
19 memo in 1995, that a provider would lose money on
20 every transaction if they were reimbursed at their
21 actual acquisition cost?

22 A. I -- the statement was made that we had a

Terry Krantz

March 17, 2006

Helena, MT

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1 fairly good idea that the dispensing fees were
2 actually being reimbursed at below cost. But we
3 didn't have any specific information as to what that
4 amount might be.

5 Q. Have you ever seen pharmacy dispensing fee
6 surveys filled out by Montana Medicaid providers?

7 A. Yes. I believe we -- I have seen them,
8 yes.

9 Q. And in those dispensing fee surveys, were
10 providers required to provide data about their cost
11 to dispense drugs?

12 A. I don't recall specifically.

13 Q. What do you recall was contained in those
14 dispensing fee surveys?

15 A. I just recall that we used to do
16 dispensing fee surveys.

17 Q. When you were the supervisor over the
18 pharmacy program, do you remember who was the person
19 who was responsible for the dispensing fee surveys?

20 A. I believe it was the pharmacy program
21 officer.

22 Q. Looking at page 2 of Exhibit Krantz 004,

Terry Krantz

March 17, 2006

Helena, MT

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1 **A. Yes.**

2 Q. Do you believe you received a copy of this
3 letter that's the last two pages of Exhibit Krantz
4 006?

5 **A. Yes.**

6 Q. The last page of Mr. Blouke's letter
7 signed by Mr. Billings states:

8 "If you have any questions, please contact
9 Terry Krantz of my staff."

10 Is it fair to say, you were the point
11 person for Montana Medicaid on the OIG's '96 report?

12 **A. Yes.**

13 Q. The other people listed as CCs are, Mary
14 Dalton, Nancy Ellery and Jeff Ireland; correct?

15 **A. Yes.**

16 Q. Was each of them also involved in the OIG
17 study?

18 **A. I'm not sure how to answer that. I assume
19 that they would have been involved in at least to
20 the level of being kept aware of what was occurring.**

21 Q. Can you recall specifically as to any of
22 them individually what their role was with the OIG

Terry Krantz

March 17, 2006

Helena, MT

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1 report?

2 **A. No.**

3 Q. If you could pull back out Exhibit Krantz
4 004 and also keep in front of you the last two pages
5 of Exhibit Krantz 006?

6 **A. Okay.**

7 Q. So Exhibit Krantz 004 was your memo of
8 October 5, 1995 to Nancy Ellery; right?

9 **A. Yes.**

10 Q. And I'd like you to look from your memo
11 starting, "It is important to note." That
12 paragraph.

13 **A. Okay.**

14 Q. And then looking at the last two pages of
15 Exhibit Krantz 006, the Mr. Blouke letter signed by
16 Mr. Billings, starting with the second paragraph,
17 "It is important to note."

18 Can you just take a look at those two
19 exhibits in conjunction with each other?

20 **A. Okay.**

21 Q. Is it fair to say, that the letter on
22 behalf of Mr. Blouke from April 1996 was based

Terry Krantz

March 17, 2006

Helena, MT

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1 of acquisition costs without a discount off of AWP
2 being applied.

3 **BY MS. O'SULLIVAN:**

4 Q. Going back to Exhibit Krantz 006 for just
5 a minute. The final report of the OIG relating to
6 Montana Medicaid from 1996.

7 I believe you testified that you saw --
8 you saw that report before; correct?

9 **A. The Exhibit Krantz 006 report?**

10 Q. Yes.

11 **A. Yes.**

12 Q. Do you remember who else in Montana
13 Medicaid received that final report?

14 **A. I guess I have to assume that all the
15 people that are listed on the report as being CC'd.
16 I don't specifically recall who would have received
17 it but I think we discussed the general routing
18 practices.**

19 Q. It would be your assumption that Nancy
20 Ellery and Mary Dalton and Jeff Ireland would have
21 also received a copy of the final report?

22 **A. Yes.**

Terry Krantz

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Helena, MT

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1 Q. As well as the director of DPHHS, Peter
2 Blouke?

3 **A. Yes.**

4 Q. Do you recall any discussions you had with
5 any of those individuals about what Montana Medicaid
6 should do, if anything, in response to that report?

7 **A. No.**

8 Q. Have you ever seen a report like Exhibit
9 Krantz 006 for any states other than Montana?

10 A. **I don't recall seeing any of the other
11 reports.**

12 Q. You were aware they existed?

13 A. **I assume they existed. Because there were
14 11 states involved in the study.**

15 Q. Just a few questions before we take a
16 break.

17 At Montana state, did you ever take any
18 courses in pharmacy?

19 A. **No.**

20 Q. After you graduated, did you ever take any
21 courses in pharmacy?

22 A. **No.**

Terry Krantz

March 17, 2006

Helena, MT

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1 **A. No.**

2 Q. Just no recollection at all?

3 **A. No recollection.**

4 Q. To your knowledge, did the State of
5 Montana ever define the term AWP, or average
6 wholesale price?

7 **A. If there were a definition of AWP, it**
8 **would probably be located in the administrative**
9 **refusals Montana related to the pharmacy program. I**
10 **can't specifically recall if there's a definition in**
11 **that rule.**

12 Q. You're not aware of any such definition?

13 **A. No.**

14 Q. To your knowledge, does the State of
15 Montana require manufacturers to report any sort of
16 pricing information to the State of Montana?

17 MS. BRECKENRIDGE: Objection.

18 **A. Could you restate that?**

19 **BY MR. DILLON:**

20 Q. To your knowledge, does the State of
21 Montana require pharmaceutical manufacturers to
22 report any pricing information to the State of

Terry Krantz

March 17, 2006

Helena, MT

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1 **BY MR. DILLON:**

2 Q. Was the State of Montana interested in
3 increasing the use of generic versus brand-name
4 drugs?

5 A. I would say that the State of Montana was
6 interested in using the least costly alternative
7 that was appropriate for the situation. That would
8 be how I would categorize it.

9 Q. Did the State of Montana for their
10 Medicaid program have a mandatory generic
11 substitution program?

12 A. I don't specifically recall.

13 Q. Do you recall whether there was a
14 difference in the co-payment for generic versus
15 brand-name drugs?

16 A. I don't recall at that time, no.

17 Q. Are you aware of state MAC, maximum
18 allowable cost, what that term means?

19 A. I have heard the term before. I wouldn't
20 be able to define it.

21 Q. To your knowledge, did the State of
22 Montana ever consider for its Medicaid program

Terry Krantz

March 17, 2006

Helena, MT

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1 setting up its own MAC program separate than the
2 federal upper limit program?

3 **A. I'm not aware of a State MAC program or**
4 **any discussions related to a creation of one.**

5 Q. Were you aware that other states had
6 created such programs?

7 **A. Yes.**

8 Q. Were you familiar at the time with how
9 other third-party payers were reimbursing drugs?

10 **A. I would say that probably not --**

11 Q. At that time --

12 **A. -- at that time familiar.**

13 Q. Mr. Krantz, a couple more questions. One
14 is, in your role as supervisor of the acute services
15 section, was your job -- did your job involve just
16 implementing policy or were you also involved in the
17 creation of policy related to those areas?

18 **A. I would categorize it as being**
19 **recommending policy changes. Most of the policy**
20 **changes did have to be approved by either the**
21 **Medicaid division administrator or the department**
22 **director.**